

AR 603

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form

**FILED**  
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Agency and Division  
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Administrative Rules Chapter Number  
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**RULE CAPTION**

In the Matter of Rules Regarding Community Solar Projects.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
5-22-17	9:30 a.m.	Public Utility Commission Hearing Room, 201 High Street SE, Salem, OR	ALJ Harper

**RULEMAKING ACTION**

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

New Rules in Chapter 860, Division 088.

**AMEND:**

**REPEAL:**

**RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**Statutory Authority:**

2016 Senate Bill 1547, Section 22, codified as Section 22, Chapter 28, Oregon Laws 2016

**Other Authority:**

**Statutes Implemented:**

Section 22, Chapter 28, Oregon Laws 2016

**RULE SUMMARY**

The forthcoming proposed rules will allow for development of community solar projects to provide customers of investor-owned utilities the opportunity to share the costs and benefits associated with the generation of electricity by solar photovoltaic (PV) energy systems. The rules will implement a program in which "Project Managers" can sell subscriptions or ownership shares in solar PV facilities located in the purchasing and subscribing customers' respective utility service territories. "Project managers" may be utilities, solar developers, project aggregators, project owners, or other entities.

The rules will enable customer participants to use the value of their proportional share of the project generation to offset utility charges for electricity that the participants consume. The rules will create criteria, guidelines and prescribe a process in which community solar projects can apply for certification with the Public Utility Commission. Certification is a necessary step in order for community solar projects to interconnect with investor-owned utilities. The rules also will prescribe participant protection measures as well as measures for the protection of non-participants, including cost reporting requirements, consumer terms and conditions disclosures, and ongoing PUC oversight of the program.

Rules will establish a third-party administrator to oversee the management of project applications, information dissemination, data management, and data reporting, amongst other responsibilities. The rules will also direct the creation of a low-income community program manager who will facilitate relationships between Project Managers and low-income communities, who will be designated 10 percent of each project's available generating capacity. Finally, the rules will direct the establishment of an advisory panel that will be composed of industry, government, and community advocate members to help inform possible changes to the program.

The rules will also prescribe program and project characteristics, such as size limits, location requirements and subscription rules. These program and project attributes can be changed by the PUC in a public process at the PUC's discretion.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 603 on comments and attach

them to an e-mail to the Commission's Filing Center at [PUC.FilingCenter@state.or.us](mailto:PUC.FilingCenter@state.or.us).

Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=20304>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at [http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_001.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_001.html).

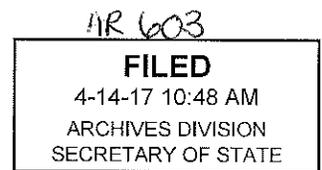
Participants wishing to monitor the hearing by telephone must contact Diane Davis at [diane.davis@state.or.us](mailto:diane.davis@state.or.us) or (503) 378-4372 by close of business May 19, 2017, to request a dial -in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

<u>05-30-2017 5:00 p.m.</u>	<u>Diane Davis</u>	<u><a href="mailto:diane.davis@state.or.us">diane.davis@state.or.us</a></u>
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State  
**STATEMENT OF NEED AND FISCAL IMPACT**  
A Notice of Proposed Rulemaking Hearing accompanies this form.



Public Utility Commission of Oregon

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of Rules Regarding Community Solar Projects.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Rules Regarding Community Solar

**Statutory Authority:**

2016 Senate Bill 1547, Section 22, codified as Section 22, Chapter 28, Oregon Laws 2016

**Other Authority:**

**Statutes Implemented:**

Section 22, Chapter 28, Oregon Laws 2016

**Need for the Rule(s):**

2016 SB 1547, Section 22, subsection (2), part (a) states "The Public Utility Commission shall establish by rule a program for the procurement of electricity from community solar projects."

**Documents Relied Upon, and where they are available:**

1. Section 22, SB 1547, codified as Section 22, Chapter 28, Oregon Laws 2016 available online at [https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2016orLaw0028.pdf](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2016orLaw0028.pdf)
2. Existing Oregon statute, found in the publication Laws Relating to the Public Utility Commission of Oregon 2016 found online at <http://www.puc.state.or.us/commission/docs/lawbook2016.pdf>
3. Existing Oregon administrative rules found online at [http://arcweb.sos.state.or.us/pages/rules/oars\\_800/oar\\_860/860\\_tofc.html](http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_tofc.html)

**Fiscal and Economic Impact:**

These rules require investor-owned utilities (IOUs) operating in Oregon to collect from retail ratepayers funds for start-up costs of the Community Solar Program ("Program") required under Or Laws 2016, ch. 28, § 22 (SB 1547). Accordingly, under these rules, retail customers of the three IOUs in Oregon will pay retail rates that include a charge for start-up costs of the Program. Costs of the Program that are not start-up costs will be borne by program participants. The Program is voluntary, so the ongoing costs (aka non-start-up costs) will be borne by persons and entities that voluntarily sign up for the Program.

The rules anticipate that the Commission will use competitive processes to secure contracts with a "third-party administrator" and "low-income community manager" for the purpose of implementing the Program. The third-party administrator and low-income community manager will incur costs to comply with requirements of the Commission imposed by these rules. Costs of the third-party administrator and low-income community manager will be part of the start-up and ongoing costs of the Program and borne by IOU ratepayers and Program participants, respectively.

The magnitude of the start-up costs and ongoing costs are in part dependent on the number of solar facilities that will generate electricity under the program and the number of voluntary participants. The Commission does not have available information to estimate the demand for the Program and the magnitude of the start-up costs of the Program that will be borne by retail ratepayers of the IOUs or of the ongoing costs that will be borne by the program participants.

The revenues of IOUs may be impacted by the proposed rules because they will allow retail customers that participate in the Program to generate and transmit to the IOUs electricity for the purpose of offsetting electricity used by the participants. The offset can decrease the volume of electricity sold to participants by the IOUs, which would reduce the amount of revenue the IOUs receive from retail customers that are Program participants. Also, the Program will require IOUs to engage in some administrative activities they are not otherwise doing, which will impose costs on the utilities. Utilities will be able to pass these administrative costs to their retail customers, even those administrative costs that are ongoing and not for start-up.

Solar facility developers may see an increased demand for solar facilities because of Or Laws 2016, ch. 28, § 22 and the implementing rules. Also, Or Laws 2016, ch. 28, § 22 and these proposed rules provide opportunity to project developers to generate revenue by selling subscriptions and ownership interests in projects to Program participants. It is not possible to determine the magnitude of demand and therefore the magnitude of revenues that solar facility developers and project developers may realize because of the Program.

The Commission anticipates that staff time will be dedicated to the implementation of the Program, but does not anticipate that additional FTEs will be required. The Commission does not anticipate that the rules implementing the Community Solar Program required under Or Laws 2016, ch. 28, § 22, will impose costs on other state agencies.

The proposed rules will require that solar facilities that generate electricity for Program participants have the proper permits from local governments, which will necessitate that local governments process applications for the permits. The Commission does not know the demand for the Program and cannot estimate the magnitude of the impact on local governments.

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):**

The PUC will need to devote Staff resources to certify community solar projects, communicate with industry and community representatives, review policy, and conduct various program maintenance efforts.

The Department of Justice may have to handle consumer fraud claims in limited circumstances.

The Department Business and Consumer Services may have to investigate securities issues with certain developers, but this is highly unlikely.

**2. Cost of compliance effect on small business (ORS 183.336):**

**a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:**

There would be approximately 50 businesses affected by the proposed rule. They include primarily solar installers; solar development companies, and some distributors of solar products (such as racking equipment) and other electrical supplies (wiring, inverters, etc.).

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:**

The following administrative tasks are anticipated by project managers: maintaining records on the operation of solar project(s) that are approved to be part of the community solar program; tracking of participant/subscriber information; tracking of overall output of particular solar projects and allocating that output among subscribing participants; reporting regularly to the program administrator on the needed information to verify project output and for subscribing participants to receive their credits on their electric bills; likely periodic contact with utilities on operations and interconnection issues; and normal bookkeeping activities. Depending on the number of projects and size of the firm, these activities are estimated to take 100 - 300 hours per year.

**c. Equipment, supplies, labor and increased administration required for compliance:**

No specialized equipment or supplies are anticipated to be needed for compliance beyond normal office equipment. The administrative function required for compliance is estimated to be between .5 and 2 FTE, depending on the size of the firm and the number of projects and subscribers a particular firm would be managing.

**How were small businesses involved in the development of this rule?**

PUC Staff held five public, informal workshops where members of the public, including small business owners, trade and industry representatives, and small business employees (small business community) participated in discussions with other stakeholders. They have provided input on policy considerations, program operations and current and anticipated industry trends.

The PUC also held a workshop in which the public responded to a set of questions in front of the Commissioners. Small business community members attended in person and remotely. The PUC has provided policy and legal documents during the informal process to public participants with the goal to receive public comment. Small business community members have received these documents and provided comment to the PUC.

Going forward, small business community members will have the opportunity to submit comments throughout the rulemaking process.

**Administrative Rule Advisory Committee consulted?: No**

**If not, why?:**

PUC Staff widely noticed and held workshops with stakeholders. PUC Staff also facilitated a public question and answer workshop before the Commissioners. Through this collaborative process, stakeholders have provided input on policy considerations, program operations and current and anticipated industry trends.

05-30-2017 5:00 p.m.	Diane Davis	diane.davis@state.or.us
Last Day (m/d/yyyy) and Time	Printed Name	Email Address